

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD MAY 18, 2010, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

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CALL TO ORDER AND ROLL CALL

Mayor Joens called the regular meeting to order at 6:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Diane Joens, Mayor  
Tim Elinski, Council Member  
Duane Kirby, Council Member  
Linda Norman, Council Member  
Darold Smith, Council Member  
Terence Pratt, Council Member

COUNCIL MEMBER ABSENT

Karen Pfeifer, Vice Mayor

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager	Gary Eisenga, Police Commander
Marianne Jiménez, City Clerk	Tim Costello, City Engineer
Steve Horton, City Attorney	Shirley Scott, C.A.T. Manager
Dan Lueder, Development Services General Manager	
Rudy Rodriguez, Administrative Services General Manager	
Richard Faust, Community Services General Manager	

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Vince Normile, a Library Volunteer. Mayor Joens presented Mr. Normile with a certificate for his participation.

BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER--  
THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON  
ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS  
PROPERLY NOTICED FOR LEGAL ACTION

Mr. Bartosh stated our Fire Marshal, Rick Contreras, was recognized as firefighter of the year by the American Legion. Community Development General Services Manager Dan Lueder was re-elected to the Arizona Water Association board of directors.

Council Member Kirby stated he would be going to Flagstaff on Thursday of this week to represent the city at the Head Start meeting.

Mayor Joens made the following announcements:

- May 21 would be the Bike to Work with the Mayor and Council event, starting at the

Viejo Park ramada at 8:00 a.m.

- Thursday she had been invited to speak at the graduation ceremony for the middle school.
- She attended the peace officers' memorial ceremony at Riverfront Park on Saturday and the dinner at the VFW that evening.
- She attended the event where our firemen were recognized.

#### CALL TO THE PUBLIC

Dr. Bob Richards stated the correct start time for the Bike to Work event was 8:30 a.m. at the Viejo Park Ramada.

#### PROCLAMATION—Cancer Survivors Day

Ms. Gina Harris, of Cancer Centers of Northern Arizona Healthcare distributed flyers and invited Council Members to attend the Cancer Survivors Day Aloha event at the Verde Valley Medical Center.

Mayor Joens proclaimed June 13, 2010, as National Cancer Survivors Day and presented the proclamation to Ms. Harris.

#### INTRODUCTION OF NEW CITIZENS ON PATROL VOLUNTEERS

Commander Eisenga introduced three of four new Citizens on Patrol volunteers, Edna Ahrens, Steve Younger, and Don Mathe.

#### RECOGNITION OF MINGUS UNION HIGH SCHOOL ART TEACHER & STUDENTS FOR PAINTING A MURAL IN THE PUBLIC SAFETY BUILDING LOBBY

Mayor Joens and Commander Eisenga presented certificates of appreciation to Mingus Union High School art teacher, Tyler Novak, and to students Kayleigh L. Kozyra, and Chloe G. Kramer, who worked on the art mural in the police department lobby.

#### APPROVAL OF MINUTES—REGULAR MEETINGS OF APRIL 20, 2010 & MAY 4, 2010, AND WORK SESSION OF MAY 11, 2010

Council Member Elinksi moved to approve the minutes. The motion was seconded by Council Member Smith, and carried unanimously.

Ms. Jiménez stated regarding the minutes of April 20, on page five it was requested the recording be checked, which she had, and she had copied what was originally presented to the Council and a copy of what was said verbatim from the recording and needed to know which of the two the Council desired to approve.

Mayor Joens stated she read the verbatim and liked that.

Council Member Elinski amended his motion to include the verbatim minutes. Council Member Smith seconded the amendment, which carried unanimously.

OLD BUSINESS—None

CONSENT AGENDA—No items

NEW BUSINESS

REQUEST BY JEAN M. SWESEY TO KEEP BEES IN THE BACKYARD OF HER RESIDENCE  
LOCATED AT 1070 SOUTH VISTA GRANDE DRIVE

Ms. Swesey addressed the Council and stated she and her family had decided to take on the adventure of having a backyard beehive. They had many reasons. First of all, it was good for the bees. Many wild hives were dying off at an alarming rate all across the United States and bees pollinated one third of our crops. Many fruits and vegetables would be gone if the bees died off. Backyard beekeeping was one way to help repopulate bees. Another reason was educational. This was a wonderful tool to help educate children, and even adults, on just how important bees were and how intricately their hives worked. She was also a substitute teacher and thought this would be another useful tool to educate children. Another reason was environmental. Bees helped gardens, flowers, and trees bloom and increased fruit and vegetable harvests. Finally, there was the honey harvested from your own hive which was said to be fantastic, and pollen and beeswax too. They still had to decide if they could do it this year. It might be too late unless they could acquire a hive right away.

Council Member Elinski questioned what generated the petition.

Ms. Swesey stated they were not aware of any petition. That was another reason they were there—to educate people because people were afraid and that was where the education came through. The bees they wanted to get were Italian honey bees which were the most docile and created the most honey. When people had these bees, no one really knew they were actually there. Any fear by people saying African bees could come in and mate with them every year would be misplaced. They could order an Italian queen and that way they would know for sure that the bees were Italian bees. As beekeepers they would know if these bees got aggressive. She had four kids and she would not put her three-year-old in jeopardy.

Council Member Smith questioned how soon they could start the hive.

Mr. Swesey stated the ideal time for the hive was actually in May, but the biggest thing they were there for was to get approval from the Mayor and Council to do that. They did understand if they were unable to get these bees in time they would start it the following year.

Mayor Joens asked about the status of the colony collapse disease.

Ms. Swesey stated it was getting worse. This was how they got started on this was by hearing about the collapse of bees hive across the country.

Council Member Smith suggested they speak to Judd Wasden on the Planning & Zoning Commission who had bee hives and two little kids. They had never gotten stung.

Council Member Kirby questioned if anyone who signed the petition was present. No one responded.

Council Member Pratt stated he did a fair amount of reading and knew there was a crisis in this country of a shortage of bees. He had friends who kept bees and had been around them and he had never been stung. He was comfortable with it.

Council Member Elinski stated he supported it wholeheartedly. He was just concerned there was a petition generated and he did not know where it got started. In light of that, they should encourage the neighbors, if they did have an issue, which he did not believe they would, that they could come to the Council.

Mayor Joens asked the City Attorney should they find it to be a nuisance, how they could revoke the privilege of beekeeping if it became necessary.

Mr. Horton replied there were probably nuisance provisions in the Municipal Code that could be applied should it become a problem. This approval was also subject to referendum.

Ms. Swesey stated if there was a problem with the neighbors, they had an open policy with them because they lived in an association, she would open up the house and invite them over if they were curious and educate them and show them what exactly happens with them. They did go to the association and spoke to the president himself and his motion was whatever the Council agreed on they would abide by as well.

Council Member Kirby stated the Council had to deal with perception as much as reality. If the perception was bad then the reality was going to be bad. He thought it was a good idea and had read about the bees that had died off and how the plants were going to suffer this year as a result and nobody seemed to know exactly what was going on. They were just dying off all over the county, not just in spots.

Mr. Swesey stated before they got the bees they could call a meeting at the club house and educate them about the bees and what they could expect.

Mayor Joens stated in the petition it stated one of the concerns was the size of their yard which was only one fifth of an acre and surrounded by other residents and the other concern was the risk of hybridization with African bees and that the community had a pool nearby

which already had a problem with bees being attracted to it.

Ms. Swesey stated it was not bees, it was wasps.

Mr. Pratt stated he thought they had addressed the hybridization pretty well if they got a new queen every year. The other thing he noticed about the petition that was curious was there were a lot of names there who could have signed it and there were only a few names. It really was an issue that the bees were incredibly important to our survival, and he supported it wholeheartedly.

Council Member Norman stated his idea of talking to the people and educating them better would be a big help.

Council Member Smith moved to approve authorizing the Mayor to sign a letter granting Jean M. Swesey permission to keep bees in the backyard of her residence located at 1070 South Vista Grande Drive. The motion was seconded by Council Member Pratt, and carried unanimously.

#### CONTRACT EXTENSION WITH RICHARDSON'S LLC FOR CUSTODIAL SERVICES FOR CITY FACILITIES

Mr. Faust stated Richardson's LLC, the custodial contractor for the city-wide custodian contract for the city, sent a letter making a request within the design timeframe, which was a 60-day period prior to the ending of their period according to the contract. This actually has been a three-year contract with an option for renewal which they were requesting on that option for the extension of one additional year. The contract actually authorized this for two additional years, but they would come back to the Council on an annual basis for this year and for the next year. At this point in time, they had reduced the contract price over the last three-years which was around the mid \$130,000. That had dropped to just about \$109,000. He indicated the majority of their rating criteria on a scale of 1-10 were around 7 to 7½.

Council Member Smith asked if this included the recreation center.

Mr. Faust stated it did not. They had assumed the recreation center under the same contract, but in reality they were being paid out of the recreation center account so they could review the account on an annual basis as to how they were keeping up with that. The contract for the recreation center was approximately \$83,000 a year.

Council Member Pratt stated he used the city facilities fairly regularly and he had seen these people in action and how they were good workers and seemed reliable.

Council Member Pratt then moved to approve the option for renewal with Richardson's LLC for an additional one-year period from July 20, 2010, through July 20, 2011, for the contract amount currently in effect. The motion was seconded by Council Member Smith, and carried

unanimously.

CONTRACT EXTENSION WITH FIREWORKS PRODUCTIONS OF ARIZONA FOR THE FIREWORKS DISPLAY FOR THE CITY'S FOURTH OF JULY CELEBRATION

Mr. Faust stated this request was from Fireworks Productions of Arizona to extend the contract via its extension for option for renewal for the pyrotechnical services the city receives for the Fourth of July fireworks program. This option for renewal was for an additional year in a four-year contract for an annual cost of \$17,000. The company had a long-standing history in the State of Arizona and had an incredible safety record.

Council Member Pratt stated 85 to 90 percent of the people he talked to, talked about what a great event it was and how many people it brought to town. It really did serve the whole Verde Valley.

Mayor Joens stated we were getting to be the only ones that had fireworks any more.

Council Member Smith moved to approve the option for renewal with Fireworks Productions of Arizona for an additional one-year period from May 1, 2010 through May 1, 2011. The motion was seconded by Council Member Norman, and carried unanimously.

FIXED BASE OPERATOR SERVICES LEASE AGREEMENT WITH BARNSTORMER FLYING CLUB LLC FOR THE COTTONWOOD MUNICIPAL AIRPORT

Mr. Costello stated this was the Fixed Based Operator (FBO) lease agreement for the airport. The FBO was a contractor who took care of duties at the airport such as fueling of aircraft, talking on the radio to incoming aircraft, and essentially being a greeter at the airport, giving out information, and providing mechanical services. These were all things they had in the request for statements of qualifications. They had other things they desired an FBO to bring forward to the airport such as flight training, aircraft rental, and a crew car. It was advertised for several months and 41 packets were sent to interested parties. We received three responses and a selection committee was formed comprised of members of the Airport Commission and staff. One firm was selected and a contract was negotiated which was reviewed and approved by the Airport Commission. The name of the proposed FBO was Barnstormer Flying Club LLC and Mike Marshall, a representative of Barnstormer was present, who would be one of two men present at the airport. Fueling of aircraft would be handled by the FBO to make the business viable.

Mayor Joens stated she agreed the FBO could not make a living without the fuel sales.

Mr. Costello briefly reviewed the agreement and lease for Hangar B which was the city-owned mechanic's hangar. Also included was an office space within the terminal building.

Mr. Marshall stated he and his partner were excited to get to this airport and get to work. They had a lot of years experience doing what they do at their home business in Pontiac,

Michigan, and they looked forward to continuing the same work here in Arizona.

Council Member Elinski requested they go over the optional services they would be providing.

Mr. Costello stated it would be aircraft rental, flight training, a small coffee shop and a crew car.

Mr. Marshall stated those were items they felt were necessary to run a good business at this small airport.

Mayor Joens stated it was an excellent contract and from her reading it covered some of the issues the city had run into in past times and addressed them. She questioned if the restaurant had to go into a capital plan for the city.

Mr. Costello stated a big restaurant would not fit in the existing building. It was probably small and more like a coffee shop. There was an existing coffee club on Saturday mornings and they were looking at the terminal to be the spot where this could occur and was what they were looking at for a restaurant because a standalone building would be what it would take to have a real restaurant.

After further discussion and comments regarding an airport restaurant, Council Member Pratt moved to approved the Fixed Base Operator Services and Lease Agreement with Barnstormer Flying Club LLC and authorize the Mayor to execute the agreement. The motion was seconded by Council Member Smith, and carried unanimously.

TRANSITION OF THE MANAGEMENT AND OPERATION OF THE COTTONWOOD AREA TRANSIT SYSTEM TO THE NORTHERN ARIZONA INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY (NAIPTA)

Mr. Bartosh stated around the first of the year, staff was directed by the Council to work with NAIPTA's staff to try and develop an intergovernmental agreement that led us to an eventual transition of the Cottonwood Area Transit (CAT) into NAIPTA. They had been meeting the last several months and trying to hammer out some of the details, particularly financial details. It had gotten tougher because of the economy, shrinking revenues, and the loss of LTAF funds which had made things even more uncertain. Clarkdale and Yavapai County, who were partners, were struggling in terms of whether they were going to be able to come up with funding. Clarkdale had indicated so far, they were planning on coming up with their share, but the County was less sure about it. They had come to the conclusion this was a good idea and something they wanted to continue and explore. Now, because of the economy, was not the appropriate time to do it as there were too many moving pieces to this. What staff was recommending to the Council was to delay this until the economy got better.

Mayor Joens questioned how we were going to reconcile transitioning and how it would

impact our operations.

Mr. Bartosh stated the city had sustained the program for over 20 years and we had great leadership with Shirley and now, Richard Faust, involved with it. He thought more importantly, the relationship with NAIPTA, while they needed to pull back a little bit, was not going to suffer by that pullback.

Mayor Joens stated they certainly had had a wonderful relationship they wanted to sustain and the city had provided a lot of support in its own staff working to ensure the transportation system worked.

Council Member Pratt stated it seemed to him that when city staff was recommending holding off on this, and NAIPTA was also recommending holding off on this, there wouldn't be too many arguments against not holding off on this.

Mr. Horton stated they had been working on unwinding some of the things they had been merging together in anticipation of something working with the financial uncertainties. This year we had done joint funding from ADOT 5311 Federal Transportation Assistance funds and we need to anticipate beginning with next federal fiscal year on October 1 that it would be Cottonwood's turn to shoulder it again independently. NAIPTA would not be filing for those funds on behalf of Cottonwood or administering them. We were engaged in discussions that would take several weeks and probably would be back sometime this summer with a new IGA to re-define what our relationship would be in the next fiscal year.

Mr. Bartosh stated we were still a member with NAIPTA and would do things jointly, however he would also caution, if it required any kind of a match, we would probably be hard pressed to meet that match for this next year and for maybe two years.

Mayor Joens asked what about the building which she thought was a NAIPTA building.

Mr. Bartosh stated that was part of the new agreement they were working on.

Mr. Horton stated the ground was the city's and we would get the building for one dollar a year in exchange for the ground lease that served as the local match to get funds to build the building. Those were the sorts of things they were working through.

Jim Wagner, Senior Manager of Operations for NAIPTA, stated they were supportive of this as the economic downturn was affecting everybody. He believed they had shown what they could do together, but it didn't make sense to do it right now. Until the funding came back up again, it was probably best to turn it back over to the city. As the funding did come in they could go down that aisle again.

Ms. Scott stated she had spoken to the ADOT administrator, Sam Chavez, today and the contract they were negotiating now on the budget would have us competing against each other one more time. When we put in our ADOT grant last year they were willing to let us go



ahead and have us write one budget and application. When we separated she would write the budget for October 1 and NAIPTA would revise their budget and we would be fighting over those funds.

Mayor Joens stated they did appreciate NAIPTA and wanted to keep our great relationship. She thanked Council Member Norman who had participated from day one on our behalf.

Council Member Norman moved to accept the staff's recommendation to postpone the transition of CAT to the management of NAIPTA. The motion was seconded by Council Member Smith, and carried unanimously.

#### RELEASE OF \$2,600 TO THE AMERICAN LEGION FOR THE VERDE VALLEY VETERANS VAN

Mr. Rodriguez stated they had been wrestling about helping the Veterans Van organization since last budget and had had issues since then because of the way they were structured. In talking to Brian from the American Legion, he recommended the city provide the funding to the American Legion who in turn would give it to the Veterans Van. It was a good idea for the city because the American Legion was a 501(c)(3), which was what they were trying to do—support a 501(c)(3). Once the money went to the American Legion, they could use it for anything they would like to. We would suggest they use it for veteran transport and hopefully it would be funneled to the Veterans Van. If they did not funnel them, there was not much we would be able to do except not fund them for the following year. The city could not fund the Veterans Van directly at this point in time because they were a for-profit L.L.C. They were going after a non-profit status for the following year.

Council Member Elinski stated it seemed like a reasonable solution for this time around. He hoped that at some time in the future they would look at how we gave money, and to whom we gave it and come up with a better system.

Mayor Joens stated they did have a policy and explained the policy for funding outside agencies that provide core service and were non-profit.

Council Member Smith stated he understood the Veterans Van was a charitable thing, but what he did not like was this was an end run around the deal. He and the Mayor met with them and they said they would get a 501(c)(3) and they were non-profit, which had not happened.

Mr. Bob Oliphant, of Cottonwood, addressed the Council and stated this funding tonight was against the policy the Council had adopted in 2003. Under the state constitution, the city could not fund a for-profit organization. For those reasons he respectfully asked this matter not be approved by the city as it was a direct contradiction of its own policy, and at best it was on the very perimeter of the state constitution.

Mayor Joens stated she would like to quote former Mayor Ruben Jauregui, "Do we not support our veterans?"

Council Member Pratt stated he did support veterans. He thought they were entering into questionable territory here. He sat through a number of meetings where they were directed to establish themselves as a non-profit. His feeling was his opposition to this had nothing to do with lack of support of veterans.

Council Member Smith stated he happened to be a veteran himself. The facts were they were not a non-profit and you had to go by the facts.

Council Member Elinski stated if they were a line item and the money we had allocated to go to them we were unable to give them because they were not a 501(c)(3) then it did seem strange to give it to another organization; to put the American Legion in their line on the budget instead of the Veterans Van, which was who the Council wanted to serve in this case. He felt they should follow through with the 501(c)(3) process and they needed to make it right, so we could give the correct organization the money that past Councils wanted to.

Mr. Rodriguez stated the direction staff received the last time they had this discussion was to encourage them to go ahead with their 501(c)(3) and if there was some way we could assist them, that was what they were looking for here--some way to assist them.

Council Member Elinski stated it was the best solution they could come up with but it worried him because it did not seem that they had been on the ball and he did not want to continue to put a band aid on this.

Council Member Kirby stated they could put a condition on the grant this year that they have it and get it this fiscal year or there won't be any further consideration. They had to find a way to make them do what they had not done by voluntary assignment in the past.

Mr. Horton stated they gave us the articles of incorporation and they were incorporated as an L.L.C. One of their articles said their purposes did not include making a profit. It looked like the paperwork was not prepared well and was an innocent omission. The concept of 501(c)(3) came from the Internal Revenue Code about a status that entitled people to give money as a tax consideration. The concern for the city was the gift clause of the state constitution that we did not use public funds for the benefit of a private person or entity. We could enter into a contract for the Veterans Van L.L.C. for the transportation of veterans which was a valid municipal purpose and in exchange for that money we would have certain recitations of what we expected in return for that. We had not done that. We'd just given the funding. So the concern arose that we were giving funding to an entity that conceptually could draw profits out of the entity. That was the concern that led to the discussion about funding a non-profit with the expectation that the money would be used for the delivery of transportation services to veterans.

Mayor Joens stated he was saying the Council could not mandate the Legion to use those funds for transportation for the veterans.

Mr. Horton stated that Council could approve it contingent on that being the expectation. The remedy would be difficult because we did not have a document to enforce it and at \$2,600, he was not sure how much time and angst they would want to invest in it. The Council could make clear tonight if it approved the distribution of this money to the American Legion, that its expectation was this was the purpose.

Council Member Smith stated he recommended, that before they went any further, they bring the paperwork to us, and then we would give them the money.

After further discussion regarding the funding, Mayor Joens moved to approve the City of Cottonwood contribute \$2,600 to the American Legion to be designated for transportation for veterans. The motion was seconded by Council Member Elinski, and carried with dissenting votes by Council Members Pratt and Smith.

RESOLUTION NUMBER 2509--REQUESTING THAT THE ARIZONA DEPARTMENT OF TRANSPORTATION ESTABLISH A DEDICATED WINTER MAINTENANCE FUND IN THE FISCAL YEAR 2011 ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) OPERATING BUDGET

Council Member Kirby stated he went to a NACOG regional council meeting and it was brought to their attention that ADOT was considering eliminating the snow removal program for northern Arizona as part of their budget process. If people could not get here in the wintertime we were going to lose money. He thought it was a good idea to keep the highways clear and this was what the resolution would ask ADOT to do.

Council Member Kirby then moved to approve Resolution Number 2509. The motion was seconded by Council Member Norman, and carried unanimously.

The Mayor requested the City Clerk read Resolution Number 2509 by title only.

RESOLUTION NUMBER 2509

REQUESTING THAT THE ARIZONA DEPARTMENT OF TRANSPORTATION ESTABLISH A DEDICATED WINTER MAINTENANCE FUND IN THE FISCAL YEAR 2011 ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) OPERATING BUDGET.

PRIORITY OF PLANNED MAJOR CAPITAL PROJECTS AND POSSIBLE FUNDING FOR THE PROJECTS

Mr. Bartosh stated this served as a precursor to developing a proposed budget, particularly as it related to capital projects. Some of this had to do with projects staff wanted to get direction from the Council on. The bigger question was the use of the \$13 million sewer fund. With an extremely tight budget it was going to be very difficult for the city to fund capital projects that could be pretty important to both the Council and the community.

Some were projects that had been listed in the strategic plan of the Council. First and foremost were those he thought were going to be very important: the remodel of the Old Town Jail and the old court room. If we could get those into usable condition they could potentially be a revenue source for the city where it could get a return on the money. Those were projects the Council may not want to wait on. There were projects related to finishing the parking area at Riverfront Park. The library parking lot was in desperate need of resurfacing. One of the other projects the Council had brought up was trying to get portal signs into the city updated. There were larger projects that could be discussed, although he did not think they were as critical as some of those he had already mentioned, such as a new city hall, a second fire station, and a regional communications center they would like to get started on. The issue was they were going to have a very tight budget and would have a tough time funding some of these projects that could be an important piece of building our economy back into the city. One of the issues that had come up was the use of the \$13 million. As the Council was aware, we were operating under a different premise before this January, where our bond attorneys who set up the bonding related to the sewer system gave us the direction this money could be used for any capital project in the city. Since that time our own City Attorney had come up with a different conclusion which at this point we were following. He could go into more detail about that and even give the Council the opportunity for further legal advice in executive session.

Mr. Horton stated it was probably prudent for the Council to hear the advice in privilege first.

Council Member Smith stated it was a public issue and the public should be aware. This was what we called transparency. The public should be able to know what we were going on. The City Attorney had given legal advice here before. He didn't see why they couldn't do it right here.

Council Member Elinski stated it was definitely the public's business because it was on the agenda and they were in public, but he preferred to get legal advice in executive session before we came back out to the public and made our decision.

Council Members Kirby, Norman, and Pratt agreed with Council Member Elinski.

Mayor Joens moved to convene into executive session to receive legal advice on this item. The motion was seconded by Council Member Norman, and carried with a dissenting vote by Council Member Smith.

After receiving legal advice from the City Attorney under executive session, the Council reconvened in public session.

Council Member Pratt stated the question was if we were legally bound by the question that was on the ballot on 1987.

Mr. Horton stated the issue they were discussing was that there was a fund of money that was derived that was levied pursuant to authorization by the voters in 1987. There were

three questions on the ballot. One involved the creation, construction and operation of a sanitary sewer system for the city. The second involved the issuing bonds of a type that required voter consent to issue because of the way they are secured. The third question was the levying of a transaction privilege tax increment of one percent to help support that system. There was some language in that third question that restricted the use of excess revenue for the sewer system only, however, at the time that question was posed, the set of law in Arizona was the city was not entitled, as a general law city, or a charter city without the authority in its charter, and we were neither one, to pose an advisory question of the voters, and could not do so. The third question on the ballot was in the nature of an advisory question to the voters that according to the Arizona Supreme Court we were not empowered to ask. Since we weren't empowered to ask the question, were we bound by the result?

Council Member Elinski stated he understood what happened and he still did not know what the right decision would be. He felt in good faith the Council told the voters the money would be used for the sewer and he would like to still honor that today. However, there were many other needs the city had and he thought they were obliged also to serve the citizens in the best way they could, so he would entertain not honoring question number 3 which never should have been made, and entertaining other uses for that money.

Council Member Pratt stated he agreed with him.

Council Member Kirby stated they did have a sewer project on the boards and they should first of all provide for that out of these funds. He questioned how much they would use.

Mr. Lueder stated it would be about \$8.5 million.

Mayor Joens stated the Council had always been conservative and it wouldn't hurt to have reserves.

Council Member Smith stated they had already spent some of it inadvertently without realizing what the restrictions could or could not be. What bothered him was the perception of the public that one more time a tax was placed and it never came off. He agreed with what Mr. Kirby said about it being sewer money and using it for the sewer. Even though the question may have been flawed that was what they were trying to get across.

Council Member Kirby stated he maintained they continue to serve the sewer system with this money as much they could and that would include the construction of the new sewer plant. The other thing was they could not use that money for operations and maintenance. They should set aside whatever amount it took of this money to complete the sewer project. Beyond that they needed to look at the other \$4.5 million as to what good they could do for the citizens of the City of Cottonwood.

Mr. Horton stated ballot question number 3 did extend to operational expenses of the sewer system with respect to those excess tax revenues.

Mayor Joens stated it seemed that what she heard the Council was saying the project for Riverfront Park would be paid out of there, but as other things were needed they could be brought to Council for a decision on using those remaining funds or saving them. They used to do the Capital Improvement Plan every year and they had not done one for awhile, mainly because they didn't have any money. It seemed they had all of these needs and should get back to doing this plan.

Mr. Rodriguez stated they would do it this coming week when they did the budget.

Council Member Norman stated she agreed they should use that money for the Riverfront Park project, but there was nothing that said they had to spend it all. We did not know how the economy was going to be for a while. She would hate to see them say they had to spend every single dollar and use it here and there and then have things go bad later.

Mr. Rodriguez stated the money was still sitting in a capital improvements fund that was segregated from every other fund earning interest.

Dr. Bob Richards, of Cottonwood, addressed the Council and stated he would like clarification on the bond for the sewer plant sunsetted in 2007 and how much money was left when that bond sunsetted.

Mr. Rodriguez stated approximately \$12 million.

Dr. Richards asked how much of that was interest that had been gained over the years.

Mr. Rodriguez stated he did not know and would have to figure it out.

Mr. Horton stated the bond was issued in 1987 and city received the money in exchange for promising to make payments. Those payments came out of user fees and other charges collected from the sewer system and it was supported by this one percent sales tax. When they talked about the bonds, the bonds had expired and the tax sunsetted, in 2007.

Dr. Richards stated it seemed to him that if there was money left over from the bond and if interest was gained from that investment, he could see the city saying it made a good investment and had x million dollars off of that investment and could use it any way it wished to use it. But the money that was left over that wasn't spent, that was where the question came up and it was designated for sewer. He questioned if that would be appropriate to say they were going to return that to the taxpayers—the extra money that was left over from the sewer bond.

Council Member Elinski stated in essence it was being returned to the taxpayers because when they turned their faucet on water came out and when they flushed their toilet they didn't have to deal with it. If they gave the money back they were going to need another wastewater facility so they were going to levy another tax to get more money to build the

wastewater facility.

Mayor Joens stated it was the taxpayers' money and would be used for taxpayers' services.

Council Member Elinski stated essentially they were giving it back every day.

Council Member Kirby stated if the Council didn't raise the rates then they were giving the money back. If you took a look at the rates of other cities in our area that ran a sewer system, our people were getting by very well. He suggested the Council establish a policy of the establishment of a sufficient fund to fund the Riverfront project and then they would have an idea of what was left over and decide then whether there was something they needed to do with the sewer system or some other area it could be spent. They should also be frugal in how they handled the balance of that money.

Mayor Joens stated she liked that idea too.

Council Member Elinski stated there was another discussion maybe they should have at a work session or whatever. He was not saying that he agreed with it or not, but if there was extra money they did had the opportunity to, they had vacated some buildings here and they could turn them into income for the city. It was something they should consider because it would be nice to get the city in a good position when the economy did turn around so that they were not trying to play catch up by pumping money into the city to reap some of the benefits of the good economy.

Mr. Bartosh stated what he thought he was hearing from the Council was saying was what staff would do would be to come back to the Council with a kind of budget for this money that included the wastewater plant, included some reserves, and some projects that staff felt really did need to be funded, and it was really sound to fund them now, particularly if they were revenue generating.

Mayor Joens stated it came back to whatever the project was, it would come back to the Council and the public would have an opportunity to comment, so she thought the direction was what Mr. Bartosh stated and asked the Council if that was correct, and the other Council Members indicated their approval.

#### CLAIMS & ADJUSTMENTS

Council Member Smith moved to pay the claims. The motion was seconded by Council Member Norman, and carried unanimously.

#### ADJOURNMENT

Council Member Kirby moved to adjourn. The motion was seconded by Council Member Elinski, and carried unanimously. The regular meeting adjourned at 8:42 p.m.

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Diane Joens, Mayor

ATTEST:

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Marianne Jiménez, City Clerk

CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of a regular meeting of the City Council of the City of Cottonwood held on May 18, 2010. I further certify that the meeting was duly called, and that a quorum was present.

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Marianne Jiménez, City Clerk

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Date